

REMARKS

Claims 1-20 were previously pending in this application. Claims 1, 8, and 11 have been amended. Claims 2 and 10 have been canceled. Reconsideration of this application in light of the above amendments and following remarks is requested.

Double Patenting

The Office Action provisionally rejected claims 1 and 8-20 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 61-74 of co-pending Application No. 10/843,402 (hereinafter referred to as the ‘402 application).

MPEP §804(I)(B)(1) provides that:

If a “provisional” nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later filed-application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer. If the ODP rejection is the only remaining rejection in the later-filed application, while the earlier-filed application is rejectable on other grounds, a terminal disclaimer must be required in the later-filed application before the rejection can be withdrawn.

In the present matter, the ‘402 application was filed on May 5, 2004 which is later than the present application. Further, the ‘402 application is rejectable on other grounds beside double patenting. (See Office Action mailed October 19, 2009 issued in the ‘402 application). It is respectfully submitted that the present application is in condition for allowance except for the provisional nonstatutory double patenting rejection, as discussed below. Consequently, the Examiner should withdraw the double patenting rejection and permit the present application to issue as a patent without a terminal disclaimer as provided under MPEP §804(I)(B)(1).

Allowable Subject Matter

Noted with appreciation is the indication in the Office Action that claims 15-20 have been allowed. Also, noted with appreciation is the indication in the Office Action that claims 2, 10, and 11 are directed at allowable subject matter, and would be allowed if rewritten in independent form. By this paper, the features of claim 2 have been incorporated into independent claim 1, and the features of claim 10 have been incorporated into independent claim 8. Claims 2 and 10 have been canceled. Claim 11 has been amended to depend from independent claim 8. Thus, Applicants respectfully submit that independent claims 1 and 8 are in condition for allowance. Further, claims 3-7 depend from and recite additional features to claim 1, and claims 9 and 11-14 depend from and recite additional features to claim 8, and therefore claims 3-7, 9, and 11-14 are allowable as well.

Conclusion

In view of the foregoing remarks, all of the claims currently pending in this application are in a condition for allowance. The Examiner is invited to contact the undersigned at 972-739-8643 to discuss any remaining issues in an effort to expedite the allowance of this application.

The Office Action contains characterizations of the claims and the related art of which Applicants do not necessarily agree with. Unless expressly noted otherwise, Applicants decline to subscribe to any statement or characterization in the Office Action.

Respectfully submitted,



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I hereby certify that this correspondence is being filed with the United States Patent and Trademark Office via EFS-Web on the following date.

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